

**From:** [Danielle B. Tierney](#)  
**To:** [Kim Sweatt](#)  
**Cc:** [Mark Thomsen](#); [Paul Kinne](#); [Leah Wagner](#); [Lori M. Lubinsky](#); [Sally M. Kramer](#); [Rita R. Heyerholm](#)  
**Subject:** RE: Garbade v Wishau: meet and confer  
**Date:** Friday, July 1, 2022 2:10:22 PM

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Kim,

I'd also point out that, without knowing what speech or alleged acts of retaliation your client is complaining of, it's impossible for my client to articulate facts related to support his legal arguments, as requested.

Additionally, your requests are not seeking factual information – they are seeking an aggregation of the facts of the case, which implies seeking legal theories. You have the same factual information that we have.

Danielle

## Danielle Tierney

**AXLEY ATTORNEYS**  
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**From:** Kim Sweatt <[ksweatt@gtwlawyers.com](mailto:ksweatt@gtwlawyers.com)>  
**Sent:** Friday, July 1, 2022 1:41 PM  
**To:** Danielle B. Tierney <[DTierney@axley.com](mailto:DTierney@axley.com)>  
**Cc:** Mark Thomsen <[mthomsen@gtwlawyers.com](mailto:mthomsen@gtwlawyers.com)>; Paul Kinne <[kinne@gtwlawyers.com](mailto:kinne@gtwlawyers.com)>; Leah Wagner <[lwagner@gtwlawyers.com](mailto:lwagner@gtwlawyers.com)>; Lori M. Lubinsky <[LLubinsky@axley.com](mailto:LLubinsky@axley.com)>; Sally M. Kramer <[SKramer@axley.com](mailto:SKramer@axley.com)>; Rita R. Heyerholm <[rheyerholm@axley.com](mailto:rheyerholm@axley.com)>  
**Subject:** RE: Garbade v Wishau: meet and confer

External Email

Danielle,

I disagree. Our interrogatories specifically asked for the underlying facts. Work product privilege protects mental impressions, conclusions, opinions, or legal theories. FRCP 26(b)(3). As with attorney-client privilege, work product privilege does not protect against underlying facts. *Hickman v. Taylor*, 329 U.S. 495 (1947).

## Kimberly Sweatt

Gingras, Thomsen & Wachs, LLP

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**From:** Danielle B. Tierney <[DTierney@axley.com](mailto:DTierney@axley.com)>  
**Sent:** Friday, July 1, 2022 12:22 PM  
**To:** Kim Sweatt <[ksweatt@gtwlawyers.com](mailto:ksweatt@gtwlawyers.com)>

**Cc:** Mark Thomsen <[mthomsen@gtwlawyers.com](mailto:mthomsen@gtwlawyers.com)>; Paul Kinne <[kinne@gtwlawyers.com](mailto:kinne@gtwlawyers.com)>; Leah Wagner <[lwagner@gtwlawyers.com](mailto:lwagner@gtwlawyers.com)>; Lori M. Lubinsky <[LLubinsky@axley.com](mailto:LLubinsky@axley.com)>; Sally M. Kramer <[SKramer@axley.com](mailto:SKramer@axley.com)>; Rita R. Heyerholm <[rheyerholm@axley.com](mailto:rheyerholm@axley.com)>  
**Subject:** RE: Garbade v Wishau: meet and confer

Kim,

Contrary to our requests, which sought for your client to identify speech she claimed was protected and acts she claimed were retaliatory, your interrogatories have asked the Defendant to outline his entire legal argument, hence why it was objected to on work product and as asking for a legal conclusion.

## Danielle Tierney

Partner

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**From:** Kim Sweatt <[ksweatt@gtwlawyers.com](mailto:ksweatt@gtwlawyers.com)>

**Sent:** Friday, July 1, 2022 12:18 PM

**To:** Danielle B. Tierney <[DTierney@axley.com](mailto:DTierney@axley.com)>

**Cc:** Mark Thomsen <[mthomsen@gtwlawyers.com](mailto:mthomsen@gtwlawyers.com)>; Paul Kinne <[kinne@gtwlawyers.com](mailto:kinne@gtwlawyers.com)>; Leah Wagner <[lwagner@gtwlawyers.com](mailto:lwagner@gtwlawyers.com)>

**Subject:** Garbade v Wishau: meet and confer

External Email

Danielle,

I'm attaching correspondence regarding Defendant's Responses to Plaintiff's first set of discovery in 21-CV-1283.

We look forward to hearing from you soon.

Sincerely,

Kim Sweatt

**Kimberly Sweatt**

Attorney

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